

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

STEPHEN MULLICAN and)
KELLY MULLICAN,)
)
Plaintiffs,)
)
v.) Case No. 5:23-cv-00160-G
)
STATE FARM FIRE AND)
CASUALTY COMPANY,)
)
Defendant.)

PLAINTIFFS' DESIGNATION OF EXPERT WITNESSES

COMES NOW Plaintiffs Stephen Mullican and Kelly Mullican ("Plaintiffs") and serve Plaintiffs' Designation of Expert Witnesses and their expert reports pursuant to Federal Rule of Civil Procedure 26(a)(2) and as required by the Court's Order (Dkt. No. 13 at 1).

I.

Plaintiffs hereby designate the following retained experts they intend to use at trial to present evidence under the Federal Rules of Evidence 702, 703, or 705:

1. **Duane Smith**
Bovini Consultants
P.O. Box 306
Bullard, Texas 75757
Telephone: (903) 216-0089

Mr. Smith is Plaintiffs' damages expert, and his expert report will be produced under separate cover to Defendant with exhibits and curriculum vitae in accordance with Rule 26(a)(2).

II.

Plaintiffs hereby designate the following non-retained experts they intend to use at trial to present evidence under the Federal Rules of Evidence 702, 703, or 705. These witnesses were retained by Plaintiffs to help with claim evaluation and their interaction with Defendant related to

Plaintiffs' claim. These are percipient fact witnesses who will testify about their observations and evaluations of the matters within their expertise from their inspection of the property after the loss (or the information and materials provided to them) and assisted Plaintiffs during the State Farm claim evaluation. Plaintiffs summarize their testimony through these summaries and the reports that are being produced to Defendant's counsel by separate cover pursuant to the Court's Scheduling Order:

2. **Chad T. Williams, P.E.**
Valor Forensic Engineering Services, LLC
P.O. Box 783
Jenks, Oklahoma 74037
Telephone: (855) 918-5111

Mr. Williams, an engineer, was retained prior to this lawsuit to evaluate the fire damage to the property and will testify to his knowledge about his inspection and the report he drafted (the scope and needed repairs), which was submitted to Defendant during the claim evaluation process. Mr. Williams previously produced a report containing his general opinions on the fire damage to the Property and the scope of repairs needed because of the October 15, 2020 fire damage. His previously produced report is being produced again to Defendant under separate cover.

3. **Ian Rupert**
Ian's Enterprise
9450 SW Gemini Dr. #39525
Beaverton, Oregon 97008-7105
Telephone: (405) 622-8721

During all times relevant to Plaintiffs' insurance claim, Mr. Rupert was Plaintiffs' public adjuster. He is expected to testify about his knowledge (based on inspection) of the damage to the Plaintiffs' property (home) and the reasonable and necessary costs of repair. On the Plaintiffs' behalf, he corresponded and communicated with State Farm during the claim

evaluation process, prior to litigation, and is expected to testify about these matters. A more comprehensive summary of his damages estimate can be found in his report provided to State Farm and is being produced again under separate cover.

Mr. Rupert may, in his testimony, explain some of his estimating evaluations based on materials he obtained and submitted with his report to State Farm. Rupert including Chad Williams, identified above, and explain how the same affected his estimate. Mr. Rupert will testify to his observations of the Property, his investigation of damages to the Property caused by the October 15, 2020 fire, related industry material regarding his investigation, his opinion that substantial fire damage occurred to the property, Defendant's failure to reasonably investigate the loss, his estimate of the reasonable and necessary costs to repair or replace covered damages, the value of Plaintiffs' personal property damaged in the October 15, 2020 fire, the proper repair protocol, and additional living expenses (loss of use). Mr. Rupert's opinions and his basis for such opinions have been previously produced through various documents disclosed to Defendant including, but not limited to, the proof of loss submitted to Defendant on February 13, 2021, and Chad Williams' June 6, 2021 report.

4. Any rebuttal experts that may be needed based on the experts designated by Defendant.

III.

Plaintiffs reserve the right to amend and/or supplement this designation with additional designations of experts within the time limits imposed by the Court or any modification of same by subsequent Court Order or agreement of the parties, or pursuant to the Federal Rules of Civil Procedure in the event it learns through discovery or otherwise that additional experts and/or witnesses who may potentially provide expert opinions and/or conclusions are necessary and/or available.

IV.

Plaintiffs reserve the right to elicit, by way of cross-examination, opinion testimony from experts designated and called by other parties to this suit. Plaintiffs express their intention to possibly call, as witnesses associated with adverse parties, any of the other party's designated expert witnesses as adverse expert witnesses.

V.

With respect to persons identified during the course of discovery as "persons with knowledge of relevant facts," the current list of which was produced in Plaintiffs' Initial Disclosures previously served on Defendant, Plaintiffs specifically reserve the right to elicit such "expert" or "lay opinion" testimony as may fall within these witnesses' education, training and/or experience, regardless of the fact that such witnesses are presently expected to testify regarding merely factual matters related to the incident in question and have not been formally retained by Plaintiffs as witnesses to testify as an expert, provided such testimony would benefit the jury to determine material issues of fact and be consistent with any applicable Court Order and the Federal Rules of Civil Procedure and Federal Rules of Evidence.

Respectfully submitted,

/s/Terry M. McKeever

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